

Article - Tax - General

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§10–306.2.

(a) In this section:

(1) “captive REIT” means a corporation, trust, or association:

(i) that is considered a real estate investment trust for the taxable year under § 856 of the Internal Revenue Code;

(ii) that is not regularly traded on an established securities market; and

(iii) more than 50% of the voting power or value of the beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is subject to the provisions of Subchapter C of Chapter 1 of the Internal Revenue Code; and

(2) “captive REIT” does not include:

(i) a corporation, trust, or association more than 50% of the voting power or value of the beneficial interests or shares of which, at any time during which the corporation, trust, or association satisfies item (1)(iii) of this subsection, is owned or controlled, directly or indirectly, by:

1. a real estate investment trust other than a real estate investment trust described in item (1) of this subsection;

2. a person exempt from taxation under § 501 of the Internal Revenue Code; or

3. a listed Australian property trust; or

(ii) subject to regulations that the Comptroller adopts, a real estate investment trust that is intended to become regularly traded on an established securities market and that satisfies the requirements of § 856(a)(5) and (6) of the Internal Revenue Code by reason of § 856(h)(2) of the Internal Revenue Code.

(b) In addition to the modifications under §§ 10–305 through 10–306.1 of this subtitle, an amount equal to the amount of the dividends paid deduction allowed

under the Internal Revenue Code for the taxable year is added to federal taxable income to determine the Maryland modified income of a captive REIT.

(c) For purposes of this section, the constructive ownership rules prescribed under § 318(a) of the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

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